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**AFSCME MEF/CEO AND CITY OF SAN JOSE
MEF & CEO JOINT BARGAINING CONTRACT NEGOTIATIONS 2015**

AFSCME MEF PROPOSAL – HOURS OF WORK AND OVERTIME

Proposed MEF language:

ARTICLE 7 HOURS OF WORK AND OVERTIME

7.11 Overtime and Compensatory Time

7.11.1 ***[REPLACE WITH PRE-2011 OVERTIME LANGUAGE.]***

7.11.6. If at any time an employee is required to work more than twelve (12) hours in one shift, the employee shall be compensated at the rate of two (2) times the employee's hourly rate for number of overtime hours worked in excess of twelve (12) hours. At no time shall an employee work beyond 14 ½ hours in one shift.

Proposed CEO language:

ARTICLE 6 HOURS OF WORK AND OVERTIME

6.7 *[REPLACE WITH PRE-2011 OVERTIME LANGUAGE.]*

6.7.1 If at any time an employee is required to work more than twelve (12) hours in one shift, the employee shall be compensated at the rate of two (2) times the employee's hourly rate for number of overtime hours worked in excess of twelve (12) hours. At no time shall an employee work beyond 14 ½ hours in one shift.

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- 7.12.1 An employee who works a normal work schedule as defined by Section 7.11 and is authorized or required to work overtime who works in excess of forty (40) hours per work week, shall be compensated at the rate of 1-1/2 times the employee's hourly rate, except when such excess hours result from a change in such employee's work week or shift or from the requirement that such employee fulfill their work week requirement.
- 7.12.2 Part-time employees are only eligible for overtime pay or compensatory time if the employee works over twelve (12) consecutive hours in the same assignment or over forty (40) hours in one week, or if the overtime exceeds eight (8) hours and is scheduled without a twenty-four (24)-hour notice.
- 7.12.3 An employee who is assigned or elects and is approved for an alternative work schedule as defined by Section 7.11 and is authorized or required to work overtime in excess of forty (40) hours per the employee's designated work week shall be compensated at the rate of 1-1/2 times the employee's hourly rate, except when such excess hours result from a change in such employee's workweek or shift or from the requirement that such employee fulfill their workweek requirement.
- 7.12.4 If an employee is scheduled to work overtime on the employee's day off and the work is canceled within twenty-four (24) hours of the scheduled overtime, the employee is entitled to two (2) hours compensation at the appropriate rate. If the overtime is canceled at least twenty-four (24) hours before the work is scheduled, no compensation is due.
- 7.12.5 Overtime worked shall be compensated at the 1-1/2 times rate. An employee assigned to work overtime may elect to either be paid for such overtime or be credited with compensatory time off, except under the following circumstances:
- The employee's choice of compensatory time would interfere with a department's ability to recover the cost of the overtime;
 - The employee's choice of compensatory time would interfere with the department's ability to have sufficient staffing or coverage;
 - The employee's choice of pay cannot be accommodated within the department's overtime budget;
 - If the work is being performed for another City department or outside agency, the employee's department may choose to compensate overtime with pay or compensatory time, provided the employee is notified of the method of payment prior to working the overtime; or
 - If the employee fails to request an election during the pay period in which the overtime is worked.
 - If the employee is not allowed to make the election to be paid overtime or to be credited with compensatory time under one of the circumstances cited above, the employee shall be informed of the reason for not being allowed such choice. The explanation shall be provided before the overtime is worked.
- 7.12.5.1 Once compensatory time off has been approved and scheduled, the employee shall be permitted to take such time off, unless emergency circumstances necessitate cancellation of the time off. In such event, the employee will remain credited with the time cancelled.

7.12.5.2 Compensatory time off credited to an employee, which is not taken within twenty-six (26) pay periods following the pay period in which the overtime is worked, shall be paid to the employee at the appropriate rate. An employee may be required to take the compensatory time off prior to the expiration of this time period, if the Department's budget will not accommodate payment of such time. An employee shall not be required to take compensatory time off during the same pay period during which it is earned.

7.12.5.3 Notwithstanding any other provision of Section 7.12.5 to the contrary, the Department Director or designee, may announce the intent of the Department to pay employees the appropriate rate for accrued compensatory time that is not used as of a date specified by the department with reasonable notice provided to affected employees. This announced intent may apply to an entire department or to a specified section(s) of a department.

7.12.5.4 Compensatory Time Payoff. An employee who separates from employment by reason of resignation, discharge or retirement and who upon the effective date of such separation has accrued unused compensatory time shall be paid for such hours of unused compensatory time at the employee's straight time hourly rate. In the event the termination results from the death of the employee, the payment, if any, shall be made to the executor of the Will or the administrator of the estate.

7.12.5.5 Public Safety Dispatchers Class Series. For purposes of the FLSA, a 480 hour cap shall apply to Dispatchers on compensatory time accumulation. All compensatory time shall, however, be subject to being paid off if not used within twenty-six (26) pay periods after it is earned, pursuant to Section 7.12.5.2 of this Agreement.

7.13 Shift Substitutions. Employees assigned and working in the Communications Division or the Operations Support Division of the San Jose Police Department, or the Communications Division of the San Jose Fire Department or the Airport Communications Center of the Norman Y. Mineta San Jose International Airport, shall be permitted to substitute during scheduled work hours for another individual who is employed in the same capacity if approved by the Department and within guidelines set forth by the Department. Notwithstanding any other provision of this agreement, such substitution shall be excluded in the calculation of the hours for which the employee is otherwise entitled to overtime compensation.

ARTICLE 8 SHIFT BIDDING

8.1 The work unit may determine the method for assigning shifts, subject to approval by the Department Director or designee and advance notice to the Union, pursuant to Section 6.7. Absent any existing method for shift bidding, seniority in class shall be used to assign shifts subject to:

1. operational needs,
2. the Department Director's, or designee's, right to deny a shift assignment based upon the need to provide quality service to the public, or
3. the need to assign employees based on special skills.